THE

WEEKLY ENTERTAINER.

For MONDAY, August 14, 1809.

Memoir of the Public Services of the Right Hon. Lord Cochrane, K. B. Captain in the Royal Navy, &c.

THE Right Hon. Thomas Lord Cochrane is the eldest son of the earl of Dundonald, by his first lady, Anne, daughter of Captain Gilchrist, an officer of considerable eminence in the royal navy. His lordship's first ennobled ancestor was William Cochrane, who, in the year 1667, was created Baron Cochrane, and, in 1669, earl of Dundonald. From his eldest son descended seven earls of Dundonald, when that branch of the family became extinct, and the title fell to Thomas, a descendant of John, the younger son of the first earl. By his second wife, a daughter of Archibald Stuart, esq. he had twelve sons, and a daughter, amongst whom were Archibald, the present earl, and Alexander, a rear-admiral, and knight of the bath.

Lord Cochrane was born on the 14th of December, 1775; and, evincing an early predilection for the naval service, he was taken under the immediate protection of his respected relative and god-father, the present Admiral Sir Alexander Cochrane. He was not more than ten or twelve years old when he first went to sea; but, as his uncle had taken care to procure an able tutor for him, he was fortunately enabled to acquire a sufficient portion of scholastic knowledge, at the time that he was inuring himself to the duties of his profession. At this period, he is said to have displayed great vigour and susceptibility of mind. We have also heard it mentioned, that, to common observers, his resolution and activity, while a youth,

appeared temerity; and that the relation of many of his achievements, when in the Bay of Biscay, in the West Indies, and on the home station, before he passed for a lieutenant, would be regarded as a tissue of gross exaggerations, if not of absolute falsehoods. His more recent actions, however, afford the strongest presumptive proofs of the undaunted hardihood of his earlier adventures.

Notwithstanding his arduous and unremitting exertions, his youth prevented him from attaining the rank of lieutenant 'till towards the close of last war. Since that period, his lordship's progress has been signal and rapid.

In the month of December, 1799, while serving in Lord Keith's flag-ship, the Queen Charlotte, he was intrusted with the admiral's cutter, and sent to relieve the Lady Nelson, in the bay of Algeziras, at the time that that ship was surrounded and attacked by French privateers and Spanish gun-boats. On this occasion, Lord Cochrane greatly distinguished himself. He chased the privateers under the cannon of the harbour, and it was only in consequence of the darkness of the night, that they were enabled to effect their escape. This action attracted the particular notice and admiration of Lord Keith, who, in September, 1800, made him master and commander, in the Speedy sloop, of 14 guns.

In this vessel, Lord Cochrane continued to be employed, in the Mediterranean, under the orders of Lord Keith, 'till nearly the end of the war. His exertions in annoying the enemy, and in making numerous captures, were eminently successful. In February, 1801, he took the French brig, La Caroline, laden with ordnance stores, and, in April, some Spanish xebecs. His most extraordinary display of courage, however, while commanding the Speedy, was in the attack and capture of the Spanish frigate El Gamo, off Barcelona, on the 6th of May; in which the difference in size, weight of metal, and number of men, in the contending ships, is particularly deserving of notice. The Spaniard mounted 32 guns, of which 22 were long 12-pounders, 8 nines, and 2 heavy carronades; and she was manned with 274 officers, seamen, boys, and supernumeraries, and 45 marines, making a total of 319; whilst the Speedy mounted only 14 4-pounders, and, including officers, men, and boys, had only 54 on board. The frigate was carried by boarding. "The great disparity of force," says Lord Cochrane, in his official letter, "rendered it necessary to adopt some measure that might prove decisive; I resolved to board, and with Lieutenant Parker, the Hon. Mr. Cochrane, the boatswain, and crew, boarded; when, by the impetuosity of the attack, we forced them instantly to strike their colours." Lieutenant Parker was severely wounded, and one seaman lost in the act of boarding. The total loss of the Speedy, in this spirited conflict,

conflict, was three killed, and eight wounded; that of El Gamo, fourteen killed, and forty-one wounded—a greater number than the crew of the Speedy consisted of.

In this vessel, accompanied by the Kangaroo, Captain Pulling, Lord Cochrane, soon after the capture of El Gamo, destroyed a xebec, of 20 guns, two or three gun-boats, and part of a convoy, which sought protection under a battery of heavy ordnance. It was on the 1st of June, while cruising off Barcelona, that the Speedy fell in with the Kangaroo; and, in consequence of information which they obtained from a Minorquin privateer, it was determined to go in pursuit of a Spanish convoy, consisting of twelve sail, and five armed vessels, then three days sail a-head.

On the morning of the 9th, they got sight of them, at anchor, under the battery of Oreposo. "Having so able and gallant an officer as his lordship," says Captain Pulling, "to lead into the bay, I hesitated not a moment to make the attack; we approached within half gun-shot of the enemy by noon with both brigs, and came to an anchor, though opposed by the battery, which is a large square tower, and appears to have twelve guns, a xebec of 20 guns, and three gun-boats, all of which kept up a brisk fire until two o'clock, when it considerably decreased, but again recommenced, encouraged by a felucca, of 12 guns, and two gun-boats, that came to their assistance; by half-past three, the xebec and one of the gun-boats sunk, and shortly after another gun-boat shared the same fate. The tower, with the remaining gun-boat, assisted by the three in the offing, continued to annoy us on both sides 'till about half past six, when the fire of the whole slackened; and on the Kangaroo cutting her cables, and running nearer to the tower, the gun-boats in the offing fled, and by seven the tower was silenced. We were annoyed by a heavy fire of musketry in different directions 'till midnight, during which time the boats of both brigs were employed in cutting out the vessels that were found afloat, under the direction of Mr. Thomas Foulerton, the first lieutenant of the Kangaroo, assisted by Lieutenant Warburton, of the Speedy, the Hon. M. A. Cochrane, and Messrs. Dean and Taylor, midshipmen; they succeeded in bringing out three brigs, laden with wine, rice, and bread. When Lord Cochrane, with his usual zeal, took the same officers under his command, and went in shore again in the hope of bringing away more, but the remainder were either sunk or driven on shore."

It appears by this account, that, from the commencement of the attack, 'till the completion of the service, at least twelve hours of incessant and laborious exertion had elapsed. "I cannot," says Captain Pulling, "express myself sufficiently grateful to Lord Cochrane for his assistance during this long

contest, as well as on the day before, when we found it necessary, for the honour of his Britannic majesty's arms, to blow up the tower of Almanara, mounting two brass four-pounders, which would not surrender, though repeatedly summoned." In this last mentioned affair, as we also learn, from Captain Pulling's letter, Lord Cochrane, who never appears to have been over cautious respecting his person, received a bruise, and was slightly singed.

A few days after the achievement of these gallant exploits, the Speedy had the ill luck to fall in with the French squadron, under the command of M. Linois, by which she was chased, and captured; but, in consequence of the engagement which took place in Algeziras Bay, between Sir James Saumarez and Linois, on the 6th of July, Lord Cochrane's captivity was of very short duration. On the day succeeding the battle, Sir James Saumarez sent Captain Brenton into the bay, with a flag of truce, to endeavour to effect an exchange of Captain Ferris, and of the officers and men who had unfortunately fallen into the hands of the enemy. After some little delay, the object of the English admiral was so far attained, that Captain Ferris, with all his officers and wounded men, were sent away, on their parole; and, by the same opportunity, Lord Cochrane, with the officers and crew of the Speedy, also succeeded in obtaining their liberty.

During the time that Lord Cochrane had commanded the Speedy, a period not much exceeding ten months, he had taken the extraordinary number of thirty-three vessels, mounting, in the aggregate, 128 guns, and containing 530 persons.

As a reward for these services, his lordship was, on the 8th of August, 1801, promoted to the rank of post-captain, in La Raison frigate; but, in consequence of the peace of Amiens, which almost immediately succeeded, his career of success was, for a time, suspended.

(To be continued.)

FASHIONS *for* AUGUST.

WALKING DRESS.

A Round robe of jacconot muslin, high in the neck, to lace up the back with coloured lacing, finished round the collar with scollop edging; long sleeves trimmed to correspond; a broad lace let in round the bottom between two rows of small tucks. Sash of corded ribband. Purple and green shot short pelisse, trimmed with broad scollop lace, confined tight to the figure, with green band to correspond. Steel clasp. A half handkerchief of green figured silk round the neck. Fine worked

worked or lace tippet handkerchief, edged with scollop lace, and ornamented with tassels, thrown carelessly over the back. Bonnet of figured sarsnet and lace, with pendant end and tassel on the left side. Shoes of pale green kid. Gloves of York tan.

A spencer bodice of pale pink sarsnet. White muslin dress, with double row of scollop lace, forming a light flounce round the bottom, over which is worn a black lace mantle and train. Egyptian bonnet, composed of pink sarsnet and antique lace. Shoes and gloves of pale yellow. Amber necklace and ear-rings. Hair after the Egyptian manner. Parasol of pink and brown shot, with white fringe.

Life of the late extraordinary Mr. Daniel Lambert.

MR. DANIEL LAMBERT was born on the 13th of March, 1770, in the parish of St. Margaret, at Leicester. From the extraordinary bulk to which Mr. Lambert attained, the reader may naturally be disposed to enquire, whether his parents were persons of remarkable dimensions? This was not the case, nor were any of his family inclined to corpulence, excepting an uncle and an aunt on the father's side, who were both very heavy. The former died during the infancy of Lambert, in the capacity of game-keeper to the earl of Stamford, to whose predecessor his father had been huntsman in early life.

The family of Mr. Lambert, sen. consisted, besides Daniel, of another son, who died young, and two daughters, who are still living, and both women of the common size. The habits of the subject of this memoir were not, in any respect, different from those of other young persons, 'till the age of fourteen. Even at an early age he was strongly attached to the sports of the field. This, however, was only the natural effect of a very obvious cause, aided, probably, by an innate propensity to those diversions. We have already mentioned the profession of his father and uncle, and have yet to observe, that his maternal grandfather was a great cock-fighter. Born and bred among horses, dogs, and cocks, and all the other appendages of sporting, in the pursuit of which he was encouraged even in his childhood, it cannot be a matter of wonder that he should be passionately fond of all those exercises and amusements which are comprehended under the denomination of field sports.

About the year 1793, when Mr. Lambert weighed 32 stone, he had occasion to visit Woolwich, in company with the keeper of the county-gaol of Leicester. As the tide did not serve to bring

bring them up to London, he walked from Woolwich to the metropolis, with much less apparent fatigue than several middle-sized men who were of the party. Such were the feelings of Mr. Lambert, that no longer than four years ago he abhorred the very idea of exhibiting himself. Though he lived exceedingly retired at Leicester, the fame of his uncommon corpulence had spread over the adjacent country to such a degree, that he frequently found himself not a little incommoded by the curiosity of the people, which it was impossible to repress, and which they were continually devising the means of gratifying, in spite of his reluctance.

A gentleman travelling through Leicester conceived a strong desire to see this extraordinary phenomenon; but, being at a loss for a pretext to introduce himself to Mr. Lambert, he first took care to enquire what were his particular propensities; being informed that he was a great cocker, the traveller thought himself sure of success. He accordingly went to his house, knocked at the door, and enquired for Mr. Lambert; the servant said he was at home, but that he never saw strangers. "Let him know," replied the curious gentleman, "that I called about some cocks." Lambert, who chanced to be in a situation to over-hear what passed, immediately rejoined, "Tell the gentleman that I am a *shy cock*."

On another occasion, a gentleman from Nottingham was extremely importunate to see him, pretending that he had a particular favour to ask; after considerable hesitation, Mr. Lambert directed him to be admitted; on being introduced, he said, he wished to enquire the pedigree of a certain mare. "Oh! if that is all," replied Mr. Lambert, perceiving from his manner the real nature of his errand, "she was got by *impertinence* out of *curiosity*."

Finding, at length, that he must either submit to be a close prisoner in his own house, or endure all the inconvenience, without receiving the profits of an exhibition, Mr. Lambert wisely strove to overcome the repugnance, and determined to visit the metropolis for that purpose. As it was impossible to procure a carriage large enough to admit him, he had a vehicle constructed expressly to carry him to London, where he arrived for the twenty-second time, in the spring of 1806, and fixed his residence in Piccadilly. His apartments there had more the air of a place of fashionable resort than an exhibition; and as long as the town continued full, he was visited by a great deal of the best company. The dread he felt coming to London, lest he should be exposed to indignity and insult from the curiosity of some of his visitors, was soon removed by the politeness and attention which he universally experienced. There was not a gentleman in town, from his own county, but went to see him, not merely gazing at him as a

spectacle,

spectacle, but treating him in the most friendly and soothing manner, which, he declared, was too deeply impressed upon his mind ever to be forgotten. Many of his visitors seemed incapable of gratifying their curiosity to its full extent, and called again and again to behold what an immense magnitude the human figure is capable of attaining; one gentleman, a banker in the city, jocosely observed, that he had fairly had a pound's worth.

On the 21st of June, at half past eight o'clock, he died, at Stamford. He had travelled from Huntingdon thither in the early part of the week, intending to receive the visits of the curious who might attend the then ensuing races. On the preceding evening he sent a message to the office of the Stamford Mercury, requesting that, as "the mountain could not wait upon Mahomet, Mahomet would go to the mountain;" or, in other words, that the printer would call upon him, and receive an order for executing some hand-bills, announcing Mr. Lambert's arrival, and his desire to see company. The orders he gave upon that occasion were delivered without any presentiment that they were to be his last, and with his usual cheerfulness. He was in bed, one of large dimensions—("Ossa upon Olympus, and Pelion upon Ossa")—fatigued with his journey; but anxious that the bills might be quickly printed, in order to his seeing company next morning. Before nine o'clock on that morning, he was, however, a corpse!

Nature had endured all the trespass she could admit; the poor man's corpulency had constantly increased, until, at the time we have mentioned, the clogged machinery of life stood still, and this prodigy of Mammon was numbered with the dead! He was in his 40th year; and upon being weighed, within a few days, by the famous Caledonian balance (in the possession of Mr. King, of Ipswich), was found to be 52 stone 11lbs. in weight (14lbs. to the stone), which is 10 stone 11lbs. more than the great Mr. Bright, of Malden, ever weighed.

He had apartments at Mr. Berridge's, the Waggon and Horses, in St. Martin's, on the ground floor—for he had been long incapable of walking up stairs. His coffin, in which there was great difficulty of placing him, was six feet four inches long, four feet four inches wide, and two feet four inches deep; the immense substance of his legs made it necessarily almost a square case, consisting of 112 superficial feet of elm, built upon two axle-trees and four clog-wheels; and upon these the remains of the poor man were rolled into his grave, in the new burial-ground at the back of St. Martin's church. A regular descent was made, by cutting away the earth slopingly for some distance. The window and wall of the room in which he lay were taken down, to allow his exit. Having been extricated from the lodging in which he died, his remains

were drawn by eight men with ropes into the burial-ground; into the church it was not possible to take him. As might be expected of such a corpse, in a very few hours after death, almost all identity of feature was lost; and, though he was buried in eight and forty hours, his remains had been kept quite as long as was prudent. A large concourse attended his funeral; and in the course of the day many hundred persons from the neighbourhood visited the grave.

Mr. Lambert was an intelligent and pleasant companion; and, notwithstanding his extreme corpulence, his body and limbs are said to have borne a very exact proportion to each other. In his youth he was an excellent swimmer; and he has for many years been celebrated in the sporting world as a great breeder and feeder of cocks. He was also famous for his dogs; some of which were sold at Tattersall's a short time ago, at prices which proved the estimation in which Lambert was held by sportsmen of the first eminence. Extraordinary as it may appear, it is true, that he had his greyhounds with him at Stamford when he died, and intended to have taken the diversion of coursing in the season! that is, he meant to have been taken in his carriage to an open part of the country, where he might have seen his dogs pursue the game. It is said that Stamford is the last place at which he meant to exhibit himself for a price.

He has a sister living at Leicester, who attended his funeral. Very little money would be necessary for the erection of a rude and durable monument to his memory; and as the grave of Lambert will always be one of the lions of Stamford, we trust a subscription will be promoted for the purpose. The good people of Leicester, perhaps, would contribute something to honour the memory of their townsman.

The Speech of Lord Erskine, in the House of Peers, on the second Reading of the Bill for preventing malicious and wanton Cruelty to Animals.

(Concluded from Page 630.)

TO distinguish the severest discipline, to command obedience, and to enforce activity in apprentices, from brutal ferocity and cruelty, never yet puzzled a judge or a jury, never, at least, in my very long experience; and when want of sustenance is the complaint, the most culpable over-frugality is never confounded with a wicked and malicious privation of food.

The same distinctions occur frequently upon the plea of moderate chastisement, when any other servant complains of his

master, or when it becomes necessary to measure the degree of violence, which is justifiable in repelling violence, or in the preservation of rights.

In the same manner the damage from a frivolous assault or a battery, the effect of provocation or sudden temper, is daily distinguished in our courts, from a severe and cold-blooded outrage. A hasty word, which just conveys matter that is actionable, is, in the same manner, distinguished in a moment from malignant and dangerous slander. Mistakes in the extent of authority, which happen every day in the discharge of the complicated duties of the magistracy, are never confounded for a moment, even when they have trenched severely upon personal liberty, with an arbitrary and tyrannous imprisonment. Unguarded or slight trespasses upon property, real or personal, are in the same way the daily subjects of distinction from malicious deprivations of rights, or serious interruptions of their enjoyment.

Similar, or rather nicer distinctions, are occurring daily in our courts, when libel or no libel is the question. A line must be drawn within injurious calumny, and fair, though, perhaps, unpleasant animadversion; but plain good sense, without legal subtlety, is sure to settle it with justice—so every man may enjoy what is his own, but not to the injury of his neighbour. What is an injury, or what only a loss, without being injurious, is the question in all cases of nuisance, and they are satisfactorily settled by the common understandings and feelings of mankind.

My lords, there would be no end of these analogies, if I were to pursue them; I might bring my whole professional life, for near thirty years, in review before your lordships.

I appeal to the learned lords of the house, whether these distinctions are not of daily occurrence. I appeal to my noble and learned friend on the woolsack, whether, when he sat as chief justice of the common pleas, he found any difficulty in these distinctions. I appeal to my noble and learned friend who sits just by him, whose useful and valuable life is wholly occupied amidst these questions, whether they are doubtful and dangerous in the decision, and whether they are not precisely in point with the difficulties which I have anticipated, or with any others which opponents to the bill can possibly anticipate. I make a similar appeal to another noble and learned friend, who has filled the highest situation; I do not see him at this moment in his place, but to him also I might make the same fearless application.

I cannot, therefore, conceive a case on which a magistrate would be exposed to any difficulty under this bill, if it should pass into a law.

The cruelties which I have already adverted to, are either committed by owners, or by servants, charged with the care and government of horses and other cattle. If the owner unmercifully directs them to be driven to most unreasonable distances, or with burthens manifestly beyond their powers; if he buys them up when past the age of strength, not for a use correspondent to their condition, but upon the barbarous and wicked computation of how long they can be tortured to profit; in neither of these cases can the cruelty be imputed to the servant whom you meet upon the road, struggling to perform the unjust commands of his employer. The master is the obvious culprit, respondeat superior, the spectators and the servant are the witnesses, and these are the cases where an indictment would operate as a most useful example, without oppression to those who thus offend systematically against every principle of humanity and justice.

On the other hand, when no cruel commands are given to the servant, but his own malice offends at once against his master, and the unhappy animal which he wickedly abuses, he of course is alone responsible; and these are the cases in which a summary jurisdiction would be most generally resorted to, as more favourable at once to the disinterested informer and to the offender, who would be thus punished with a small penalty, and be delivered from an expensive prosecution.

The other house of parliament will no doubt accomplish this in the further progress of the bill.

But in neither of these cases, which comprehend, indeed, every abuse which the bill extends to, is there any kind of danger that it will work oppression, or produce uncertainty in decision.

A man cannot, if an owner, be the subject of an indictment, because he may have been less considerate and merciful than he ought to be; nor, if a servant, for an unreasonable blow of temper upon an unmanageable charge. No, my lords! Every indictment or information before a magistrate must charge the offence to be committed maliciously, and with wanton cruelty, and the proof must correspond with the charge. This bill makes no act whatever a misdemeanor that does not plainly indicate to the court or magistrate a malicious and wicked intent; but this generality is so far from generating uncertainty, that I appeal to every member in our great profession, whether, on the contrary, it is not in favour of the accused, and analagous to our most merciful principles of criminal justice? So far from involving the magistrate in doubtful discriminations, he must be himself shocked and disgusted before he begins to exercise his authority over another. He must find malicious cruelty; and what that is can never be a matter of uncertainty or doubt,

doubt, because nature has erected a standard in the human heart, by which it may be surely ascertained.

This consideration surely removes every difficulty from the last clause, which protects from wilful, malicious, and wanton cruelty, all reclaimed animals. Whatever may be the creatures which, by your own voluntary act, you chuse to take from the wilds which nature has allotted to them, you must be supposed to exercise this admitted dominion for use, or for pleasure, or from curiosity. If for use, enjoy that use in its plenitude; if the animal be fit for food, enjoy it decently for food; if for pleasure, enjoy that pleasure, by taxing all its faculties for your comfort; if for curiosity, indulge it to the full. The more we mix ourselves with all created matter, animate or inanimate, the more we shall be lifted up to the contemplation of God. But never let it be said, that the law should indulge us in the most atrocious of all propensities, which, when habitually indulged in, on beings beneath us, destroys every security of human life, by hardening the heart for the perpetration of all crimes.

The times in which we live, my lords, have read us an awful lesson upon the importance of preserving the moral sympathies. We have seen that the highest state of refinement and civilization will not secure them. I solemnly protest against any allusion to the causes of the revolutions which are yet shaking the world, or to the crimes or mistakes of any individuals in any nation; but it connects itself with my subject to remark, that even in struggles for human rights and privileges, sincere and laudable as they occasionally may have been, all human rights and privileges have been trampled upon, by barbarities far more shocking than those of the most barbarous nations, because they have not merely extinguished natural, unconnected life, but have destroyed (I trust, only for a season) the social happiness and independence of mankind, raising up tyrants to oppress them all in the end, by beginning with the oppression of each other. All this, my lords, has arisen from neglecting the cultivation of the moral sense, the best security of states, and the greatest consolation of the world.

My lords, I will trouble your lordships no longer than with admitting, for the sake of the argument, that there may be cases, especially in the beginning, where the execution of the bill may call for the exercise of high judicial consideration, through the dignity and learning of the supreme court of criminal jurisdiction. And here I cannot help saying, that it adds greatly to the security I feel upon this part of the subject, that when the bill shall have received the sanction of parliament, it will be delivered over to my noble and learned friend, who presides so ably in the court of king's bench. From his high authority, the inferior magistracies will receive its just interpre-

tation, and, from his manly and expressive eloquence, will be added, a most useful inculcation of its obligations; for I must once again impress upon your lordships' minds, the great, the incalculable effect of wise laws, when ably administered, upon the feelings and morals of mankind. We may be said, my lords, to be in a manner new created by them. Under the auspices of religion, in whose steps they must ever tread, to maintain the character of wisdom, they make all the difference between the savages of the wilderness and the audience I am now addressing.

The cruelties which we daily deplore, in children and in youth, arise from defect in education, and that defect in education from the very defect in the law, which I ask your lordships to remedy. From the moral sense of the parent re-animated, or rather in this branch created by the law, the next generation will feel, in the first dawn of their ideas, the august relation they stand in to the lower world, and the trust which their station in the universe imposes on them; and it will not be left to a future Sterne to remind us, when we put aside even a harmless insect, that the world is large enough for both. This extension of benevolence to objects beneath us, become habitual by a sense of duty inculcated by law, will reflect back upon our sympathies to one another, so that I may venture to say firmly to your lordships, that the bill I propose to you, if it shall receive the sanction of parliament, will not only be an honour to the country, but an æra in the history of the world.

Lord Erskine concluded with a few observations regarding the future progress of the bill in the committee, which are not material to the principle of the law.

THE following plan of benevolence is said to have been adopted by the late Sir Richard Hill, of Hawkstone, in Shropshire, and the Hon. Henry Erskine, the leading advocate of the Scotch bar, and a near relation of Lord Erskine, and may with propriety be annexed to the above article. The circumstances are thus detailed by Mr. Pratt, in his pleasing work, entitled Gleanings.

"The above-mentioned gentlemen, instead of bleeding animals to death, and wantonly destroying them, or making them destroy one another, often repair the ruins, heal the bruises, and bind up the wounds of such as fashion or avarice, poverty or age, have brought low. For hapless and helpless steeds, under these circumstances, they have a warm shed and a rich pasture. Nor is this sweet pity exercised in favour of their own steeds only. They purchase the way-worn and infirm, wherever they can find them; they rescue them from the labour to which they would be no longer equal, and give them the repose which age, misfortune,

misfortune, and honest servitude deserve, on the purest principles of compassion.

INTERESTING TRIALS.

HERTFORD ASSIZES, Monday, July 24.

GEORGE EARL OF ESSEX, *v.* THE HON. AND REV. WILLIAM CAPEL.

Before Lord Ellenborough and a Special Jury.

FOX-HUNTING.

THIS was a cause which excited a considerable degree of interest, and there was scarcely a gentleman of rank for many miles round, who did not attend for the purpose of hearing it.

Mr. Serjeant Shepherd addressed the jury on the part of the plaintiff, in a most able and eloquent speech. He lamented that the jury should be called upon to decide a question of this nature, between two persons who stood in so near a degree of relationship to each other; but inasmuch as the earl of Essex was under the necessity of bringing this action, for the purpose of protecting himself in the enjoyment of his property; and as Mr. Capel had stood forward as the manager and principal person of the Berkeley hunt, he had rendered it absolutely necessary that he should be the first person attacked by the earl of Essex. The complaint was, that the defendant had committed a trespass in breaking and entering his grounds, called Cashiobury-park, and with horses and hounds destroying the grass and herbage, and breaking down his fences. The defendant justified himself this way:—he said that he had started a fox on other ground, which was not the property of the earl of Essex, and that the fox being a noxious animal and liable to do mischief, he, for the purpose of killing and destroying him, and as the most effectual means of doing so, broke and entered the park with hounds and horses, and hunted the fox. The answer of the earl of Essex to this was, that the defendant's object was not to destroy the fox, and that if it was so, hunting was not the most effectual means of killing the animal; but that, on the contrary, his motive was the amusement and diversion afforded by the chase. The learned serjeant observed, that the object professed by the defendant in his plea was perfectly ridiculous and absurd; he would have it supposed, that himself and the gentlemen composing the Berkeley hunt, had associated themselves, not for their amuse-

ment

ment and diversion, but for the pure patriotic desire of destroying those noxious animals. The defendant would have the jury believe, that clergymen were descending from their pulpits, bankers neglecting their counting-houses, brewers running away from their breweries, and all flocking from London for no other purpose than to confer the obligation on the people of Herts, of freeing the country from noxious vermin. So far from it being their object to destroy foxes, he rather thought if they were to start a fox, and some man happening to have a gun in his hand, was to fall in with their patriotic motive, and was to shoot the fox, he would meet with but *lenten* entertainment. In fact, every one knew that their object was the diversion of the chase, and they did not care three farthings whether the fox was killed or not, except for the triumph of his brush. The object of rooting them out of the country, (for every man knew they wished to increase them) in order to have the pleasure of running them to death; but to put it beyond all doubt in this case, he should prove that Lord Essex, as one of the proprietors of land, had employed a man to take the most effectual mode of killing foxes, which was by catching them in a trap, or shooting them with a gun. These two modes Mr. Capel did not like, and he spoke to the man upon the subject, but the man was steady, and he went on shooting wherever his bullets would reach, and killing wherever his traps would take. Mr. Capel then said, "I do not ask you not to destroy the foxes, but I will tell you what, I will send you a barrel of ale to drink success to the Berkeley hunt." Now, when a man said to another, "I do not ask you to do a particular thing," it was generally the most expressive way of indicating a wish to have it done. It put him in mind of a story of a quaker, who being on board of a ship, a merchant ship, the master observed to him, that there was a French row-boat coming towards them, no doubt, with a design to board them; "But," added the master, with an appropriate oath or two, "I'll run the fellow down." The quaker said, "Oh! surely you won't do such a wicked thing as to destroy so many poor people's lives." "Yes, but I will," exclaimed the master. "I would not for the world," replied the quaker, "but I will tell thee what, friend, if I was inclined to do such a thing, I would starboard my helm." The master did starboard the helm, and the boat was run down.—The learned serjeant repeated, that the object of the defendant and the gentlemen of the Berkeley club was to preserve foxes, in order to hunt them—very like raising the Devil for the purpose of laying him. After some other general observations, he concluded, by expressing his perfect confidence, that the verdict of the jury would prevent a repetition of the injury.

Two

Two witnesses, one of the name of Richard Pugh, his lordship's bailiff, and John Hollinshead, his lordship's gamekeeper, clearly proved the facts of the case; and the last witness distinctly stated, that he had been asked by the defendant, Mr. Capel, not to destroy foxes.

Lord Ellenborough interrupted the further progress of the cause, observing that it was a contention against all nature and conviction. Could it be supposed that gentlemen hunted for the purpose of killing vermin, and not for their diversion? Could the jury be desired to say, upon their oaths, that the defendant was actuated by any other motive than a desire to enjoy the pleasures of the chase? He had wished to suffer the cause to go to a certain extent before he expressed his opinion upon the subject. Even if the dogs were allowed to run, was there any pretence for saying that where the dogs did not go any person could ride and break the fences? The defendant said that he had not committed the trespass for the sake of the diversion of the chase, but as the only effectual way of killing and destroying the fox. Now, could any man of common sense hesitate in saying that the principal motive was not the killing vermin, but the sport. It was a sport the law of the land would not justify, and there should not be a new law of the land accommodated to the pleasures and amusements of these gentlemen. The pleasures of the chase might be taken when there was the consent of others who were injured by them; but they must be subservient to such consent. There might be such a nuisance by a noxious animal as would justify the attempt to destroy him by running him to his earth, but that would not justify the digging for him afterwards—that had been settled by law; but even if an animal might be pursued with dogs, it did not follow that fifty or sixty persons had therefore a right to trespass on other people's lands. He could not see what there was in the case of Trentham *v.* Grundy, 1st term reports, to warrant the opinion that any person might follow the hounds over the lands of another. He had looked into that case, and referred to the others quoted in it. Even in the case chiefly relied on, it was stated that a man might not hunt for his pleasure or profit, but only to destroy such noxious animals as were injurious to the common weal. Therefore the good to the public must be the governing motive. He would ask the jury, whether that could have been the motive of the defendant? The last witness had expressly stated that he wished rather to nourish these noxious animals, than destroy them.

Mr. Serjeant Best.—After what your lordship has said, I will not occupy the time of your lordship or the jury with one word more.

Lord Ellenborough.—There should be nominal damages—it is only meant to quiet a right. The plaintiff's counsel tell me they will be satisfied with nominal damages, therefore nominal damages will do. If this trespass is repeated, it will be a different thing.

The jury consulted a short time, and returned a verdict for the plaintiff, with forty shillings damages.

The foreman stated, that it was the wish of the jury to give exemplary damages, but understanding that his lordship and the plaintiff acquiesced, they had only given forty shillings.

Lord Ellenborough.—You do very right to find forty shillings; though, in this case, as there is a special justification on the record, one shilling damages would answer the purpose of carrying the costs. I should, however, still advise the damages to be forty shillings, but that there are seven other actions depending, and the effect of your verdict would be not to give one forty shillings, but forty shillings seven times over. One shilling damages will answer every purpose, and I shall, if necessary, certify that the trespass was wilful and malicious.

The jury then altered their verdict to 1s. damages.

THE EARL OF ESSEX, *v.* —— GOSLING, ESQ.

THIS was an action of the same description, and the defendant's counsel consented to have a similar verdict recorded.

COURT of CHANCERY, JULY 31.

EX-PARTE THE GOVERNORS OF THE BRUTON FREE GRAMMAR SCHOOL.

THIS was a petition presented on the part of the governors, complaining of the Rev. William Cosens, for misconduct in his character of master of the grammar-school, and praying his removal from that situation. The petition stated the formation of the corporation by statute, in the time of Edward VI. by which they were bound to perform statutes and ordinances for the government of the school, under the sanction of the bishop of Bath and Wells; but which had never yet been done. In the year 1799, Mr. Cosens had been elected master, upon a vacancy, at the salary of 80l. a-year. In the year 1807, upon complaint made of misconduct in Mr. Cosens, the governors proceeded to expel him from his office; but upon his presenting a petition, this court was pleased to restore him. The present petition stated the continuance of the same misconduct, and was verified by affidavits, charging Mr.

Cosens with neglecting the duties of his office, attending to forming and converting the play-ground, intended for the boys, into a farm-yard, by which the school was deteriorated, and the situation was become a mere sinecure.

In answer to this charge, the affidavit of Mr. Cosens retorted the charge of neglect upon the governors, by their not keeping the school-house in repair, denied the charges of neglect, farming, &c. and expressed his readiness to instruct the scholars, but none such were sent for the purpose.

The lord chancellor observed, the governors were beginning at the wrong end. By the statute of Edward VI. the governors were bound to make rules and regulations for the government of the school, with the approbation of the bishop of Bath and Wells; yet it appeared this had not yet been done. It was of no use to elect a schoolmaster 'till such regulations were made; and if that was not done, he must do it himself. This court was bound to do that, in the time of George III. which ought to have been done in the time of Edward VI. that is, to see that such rules and regulations were made. Let this petition stand over until Michaelmas term, and let the regulations be in the mean time adopted; and then the court will have some rule whereby to judge, whether or not the master conforms himself to them. In the mean time Lord Eldon said he would make it his business to communicate with the bishop on the subject.

DINNER.

TEN o'clock was, in this country, the ancient hour of dining, and continued so in the univerity of Cambridge even in the reign of Edward VI. as appears from a very remarkable passage in a sermon of Thomas Lever, at Paul's Cross, on the 14th of December, 1550. About the middle of Queen Elizabeth's reign, the dining hour was somewhat later, though even then it was kept up to ten o'clock in the universities, where the established custom is not so easily altered as in private families.

"With us (says the author of the Description of England, in the preface to Holinshed) the nobilitie, gentry, and students, do ordinarily go to dinner at eleven before noone, and to supper at five, or between five and six, at afternoone. The merchants dine and sup seldome before twelve at noone and at six at night, especially in London. The husbandmen dine also at high-noone, as they call it, and sup at seven or eight; but out of the terme, in our universities, the scholars dine at ten.".

Such was the custom 'till the middle of the seventeenth century; and even fifty years ago, the colleges dined at twelve.

Answer, by Samuel Tucker, of Bugford, near Dartmouth, to R. Loosemore's Enigma, inserted June 5.

NOTHING was nothing, Sirs, in days of yore,
So 'twill remain when time shall be no more.

Answer, by J. Melhuish, of Honiton, to W. Kent's Rebus, inserted June 19.

'TIS HIPPOPOTAMUS you mean,
As in your lines is plainly seen.

†§† Similar answers have been received from W. D. Champion, and H. B. of Bridgewater; C. Crews, of Newton Abbot; Paulus Æmilius; R. Loosemore, of Tiverton; and S. Tucker, of Bugford.

A CHARADE, *by A. Kyne, of London.*

ITS where my first delights to dwell,
And haunts the fox-glove's crimson bell,
My next is often found;
Beneath the fragrant jessamine's shade,
Or where the woodbine rears its head,
My whole with sweets is crown'd.

A CHARADE, *by W. D. Champion, of Bridgewater.*

WHEN hostile bands in battle's strife engage,
The warrior, with my first, in deadly rage,
My second's cause determin'd to maintain,
Drives furiously along the martial plain,
Spreads devastation and fell havoc round,
Whilst heaps of mangled slain o'erspread the ground.
To find my whole, go seek the gay parterre,
And trace the various beauties reigning there,
Where Flora's lovely tribe of fragrant flowers,
Luxuriant blooming round entwining bowers;
Their odoriferous sweets around diffuse,
And charm the sight in variegated hues.

An ENIGMA, *by R. Trewavas, Jun. of Mousehole.*

THE tender infant, scarce in length a span,
Matur'd by age, arrives to perfect man;
From small beginnings, like that babe, I rise,
From sordid dust to meet the azure skies.
And frail as man, or gaudy as the flower,
Nipp'd by the blast, I perish in an hour.
As on swift pinions soar in air on high,
Or in my prime lopp'd off, neglected die.
When rumbling thunders thro' the air still roll,
And forky lightnings dart from pole to pole;
Or rolling cannon-balls, thro' ether hurl'd,
Crush me to atoms in a wooden world;
To view my form, should some fair nymph draw near,
I force from her the sympathetic tear;
Yet, Phœnix like, I spread my wings of love,
To shield the sparrow, or the beauteous dove.

POETRY.

For the WEEKLY ENTERTAINER.

SUMMER.

(Continued from Page 640.)

UNVEIL'D now Phœbus bright behold,
Attir'd in robes of burnish'd gold;
Possess'd of mighty power and force,
Upwards he takes his flaming course;
And as thro' floods of fire he tow'rs,
Hot on the earth the deluge pours,
Above, around, where'er we gaze,
'Tis one intolerable blaze.
Now Flora's race, with aspect gay,
Yield to our view a rich display;
And scatter'd o'er the neat parterre,
In perfect youth and grace appear;
By genial breezes softly fann'd,
Their party-colour'd leaves expand;
And op'ning wide, with youthful bloom,
Throw to the air a rich perfume;
But scorch'd with heat, observe how soon,
They wither at th' approach of noon;
Stung with the sun's destructive glare,
Which pierc'd their lovely bosoms bare,
They droop and hang their languid heads,
Over their ardent, thirsty beds;
So oft when parching fevers rage,
In the young veins of tender age,
How fast their new flush'd charms consume!
How soon they're buried in the tomb!
Nature, incomparable maid!
In all her loveliest dress array'd,
Amid the burst of rays profuse,
Smiles with a thousand different hues;
While melody, and fragrance sweet,
In her most eminently meet;
But her fond favourite, the green,
Which erst prevail'd o'er all the scene,
Is chang'd and fled, and now in lieu,
An arid colour strikes our view;
See yonder hills, and mountain-tops,
Glitter with most luxuriant crops;
And thick set stalks of ripening corn,
Our plains and vallies now adorn;
The forest, and the broom-clad heath,
The limpid river underneath,
The rocks, and wood-encompass'd leas,
Our never tired senses please;
Affording to th' observant eye
A well arrang'd variety.
What joys, which cannot be express'd,
Reside within the farmer's breast;
How does his heart with pleasure beat,
To see th' invaluable wheat,
Filling the new-constructed ear,
Repaying every anxious care;

Behold him yonder briskly lead
His num'rous troop across the mead;
While every sun-burnt swain and lass
Teds all abroad the new-mown grass;
Or turns the grateful scented hay
To the sun's influential ray;
Filling, as light they trip along,
Th' adjacent woodlands with their song;
And now, hard by some hedge they meet,
And round the pitcher take their seat;
There the delighted, merry folk,
Cracking a friendly, num'rous joke,
And raising oft the boist'rous laugh,
Th' exhilarating bev'rage quaff.
The mower, tir'd by heat and toil,
Lies prostrate on the burning soil;
And, cover'd with the grassy heaps,
Beneath the cooling burden sleeps;
The prancing horse and cattle flee
For shelter to some neighb'ring tree;
And the soft feather'd tribe and choir,
Straight to the lurid wood retire,
Where, guarded from the raging noon,
They their respective notes attune.
Hapless the way-worn traveller,
Who cross some desart, wild and drear,
Pursues his solitary path,
Beneath the sun's vindictive wrath;
Or still more wretched is the state
Of him, compell'd by rigid fate,
Forlorn to wander, at this time,
In hot Arabia's barren clime,
Where clouds of sand, with heat intense,
Sweep on with ceaseless vehemence,
And dark'ning the sulphureous air;
At once o'erwhelm him in despair;
No object o'er the waste he sees,
No shelt'ring groves, no lofty trees,
Throw o'er the ground their grateful shade,
'Neath which its ire he might evade;
No cooling gales, nor zephyrs, dance
Upon his feverish countenance;
No flow'ry bank to rest his feet
That, blist'ring with the raging heat,
Nor gurgling streams can he descry,
(In gentle murmurs gliding by,)
Nought, nought, to quench his gnawing thirst,
Save the big, swollen tears, that burst
In torrents from his languid eyes,
Wrung out by inward agonies;
But pensive, sad, and woe-begone,
He moves with faultering footsteps on;
'Till parch'd with burning pains, at length,
His courage fails him, and his strength
Quits his weak knees, which try, in vain,
Their wonted burden to sustain;
Nature yields up th' unequal strife,
And the dim, waning flame of life,
Hov'ring around his flutt'ring heart,
Waits his commission to depart;
When rushing by, the dread simoon
Seals his inevitable doom;
Stretch'd lifeless o'er the sand he lies,
A wretched, burning sacrifice!

(To be concluded in our next.)